

Notice of Allowability

Application No.

10/506,746

Examiner

Susannah Chung

Applicant(s)

WHITTAMORE ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/29/06.
2. ☒ The allowed claim(s) is/are 1-13 and 15-17.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>050406</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>4/6/06, 4/7/06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Claims 1-13, and 15-17 are pending in the instant application. Claims 14 has been canceled.

Response

Applicant's remarks and amendments filed on 03/29/06; 4/6/06; and 4/7/06 are acknowledged.

Priority

Applicants are entitled to priority under 35 USC 119 (a)-(d) because of the common assignee.

Obviousness Type Double Patenting

Examiner's provisional rejection of claims 1-11 and 13 under obviousness type double patenting is withdrawn in view of Applicants's remarks and amendments to the claims.

IDS

The information disclosure statements (IDS), filed on 4/6/2006 and 4/7/2006 have been considered. Please refer to Applicant's copy of the 1449 submitted herewith.

Restriction/Scope of elected subject matter

The scope of Applicant's subject matter is directed to where z is CH and Applicants have agreed to limit the scope of this application to the core pyrrole, wherein z is CH. Where z is nitrogen has been deleted from the instant claims as non-elected subject matter.

All compounds falling outside the class(es) and subclass(es) of the selected compound and any other subclass encompassed by the election above will be directed to nonelected subject matter and will be withdrawn from consideration under 35 U.S.C. 121 and 37 C.F.R. 1.142(b).

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Applicants reserve the right to file divisional applications on the remaining subject matter, i.e. wherein z is nitrogen. (The provisions of 35 U.S.C. 121 apply with regard to double patenting covering divisional applications.)

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

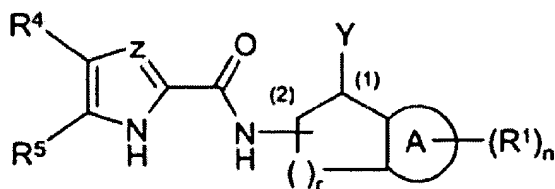
Authorization for this examiner's amendment was given in a telephone interview with Attorney Lucy Padget on 05/04/06.

The application has been amended as follows:

In Claim 1, **delete** "or nitrogen" after the word CH. This is non-elected subject matter.

Reasons for Allowance

The present invention is directed to pyrrole derivative of the compound of formula (I)



, depicted in claim 1, wherein z is CH.

The closest prior art of record is U.S. Pat. No. 5,998,463 (Hulin et al.), which does not teach or provide the requisite motivation to make the instantly claimed compounds, wherein R4 and R5 together are -S-C(R6)=C(R7)- or -C(R7)=C(R6)-S-, wherein R6 and R7 is chloro and the other is hydrogen or both R6 and R7 are chloro.

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Telephone Inquiry

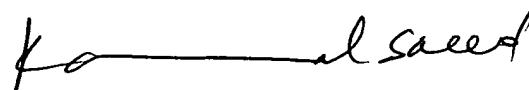
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susannah Chung whose telephone number is (571) 272-6098.

The examiner can normally be reached on M-F, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susannah Chung
Patent Examiner, AU 1626
Date: 5/4/2006



KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER